

**To:** Matthew Powelson([matt@321-law.com](mailto:matt@321-law.com))  
**Subject:** U.S. Trademark Application Serial No. 90894638 - M - MON.T.1731  
**Sent:** May 10, 2023 02:46:22 PM EDT  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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## Attachments

### United States Patent and Trademark Office (USPTO) Office Action (Official Letter) About Applicant's Trademark Application

**U.S. Application Serial No.** 90894638

**Mark:** M

**Correspondence Address:**

Matthew Powelson  
321 LAW, INC.  
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MONTEREY CA 93942 UNITED STATES

**Applicant:** Monster, Inc.

**Reference/Docket No.** MON.T.1731

**Correspondence Email Address:** [matt@321-law.com](mailto:matt@321-law.com)

## NONFINAL OFFICE ACTION

**Response deadline.** File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

**Request an extension.** For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant's response to this letter within six months of the “Issue date” to avoid abandonment of the application.

**Issue date:** May 10, 2023

The statement of use has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

## SECTIONS 1 AND 45 REFUSAL – SPECIMEN

**Webpage specimen does not include required URL and/or date printed/accessed.** Registration is refused because the specimen is not acceptable as a webpage specimen; it lacks the required URL and/or date printed/accessed. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a). Thus, it is unclear whether the specimen shows the applied-for mark in actual use in commerce. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a), (c); *see* TMEP §§904, 904.03(g), 904.07(a). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods and services identified in the statement of use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the TEAS form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a). Because the webpage specimen lacks the associated URL and/or access or print date on it, within the TEAS form used to submit the specimen, or in a verified statement in a later-filed response, it is unacceptable to show use of the mark in commerce. TMEP §§904.03(i), 1301.04(a).

**Examples of specimens.** Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m). A webpage specimen submitted as a display associated with the goods must show the mark in association with a picture or textual description of the goods and include information necessary for ordering the goods. TMEP §904.03(i); *see* 37 C.F.R. §2.56(b)(1), (c).

Specimens for services must show a direct association between the mark and the services and include: (1) copies of advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services. *See* 37 C.F.R. §2.56(b)(2), (c); TMEP §1301.04(a), (h)(iv)(C).

**Response options.** Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a verified statement, in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20 or 28 U.S.C. §1746, specifying the URL of the original webpage specimen and the date it was accessed or printed.

- (2) Submit a different specimen (a verified “[substitute](#)” specimen), including the URL and date accessed/printed directly on the specimen itself or in a separate statement, that (a) was in actual use in commerce prior to the expiration of the deadline for filing the statement of use and (b) shows the mark in actual use in commerce for the goods and/or services identified in the statement of use. Applicant must also submit the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce prior to expiration of the filing deadline for filing a statement of use.”

Applicant may not withdraw the statement of use. *See* 37 C.F.R. §2.88(f); TMEP §1109.17.

For an overview of the response options referenced above and instructions on how to satisfy these options using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration.

**ASSISTANCE:** Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**How to respond.** File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

/Melissa Sturman/

Melissa Sturman

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(571) 272-2781

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## RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to abandon.** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) system availability could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email [TEAS@uspto.gov](mailto:TEAS@uspto.gov).
- **Responses signed by an unauthorized party are not accepted and can **cause the application to abandon**.** If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with legal authority to bind a juristic applicant. If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find contact information for the supervisor** of the office or unit listed in the signature block.

## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on May 10, 2023 for  
**U.S. Trademark Application Serial No. 90894638**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

### GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.